

**ASSEMBLY BILL**

**No. 1072**

**Introduced by Assembly Member Nakanishi**

February 20, 2003

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An act to add Chapter 11 (commencing with Section 12200) to Division 5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as introduced, Nakanishi. Vehicles: commercial driver's licenses: third-party testers.

(1) Existing law prohibits a person from operating a commercial motor vehicle, as defined, unless the person has in his or her immediate possession a valid commercial driver's license of the appropriate class and an endorsement issued by the Department of Motor Vehicles to permit the operation of the vehicle, except as specified.

Existing law prohibits the issuance of a commercial driver's license until the applicant for the license has passed a written and driving test for the operation of a commercial motor vehicle, as specified.

Existing law requires the test to be conducted by, or under the direction of, the department, but authorizes the department to allow a third-party tester to administer the driving test part of the examination if certain conditions are met.

This bill would establish procedures for certification by the department of third-party testers and would prohibit a person from administering the specified test until he or she has been certified under these provisions. Because a violation of this prohibition would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 11 (commencing with Section 12200)  
2 is added to the Vehicle Code, to read:

3  
4 CHAPTER 11 THIRD-PARTY TESTERS FOR COMMERCIAL DRIVER'S  
5 LICENSES

6 12200. For the purposes of this chapter, the following terms  
7 have the following meanings, unless the context clearly requires  
8 otherwise:

9 (a) The "administration" is the Federal Highway  
10 Administration.

11 (b) The "bureau" is the Bureau for Private Postsecondary and  
12 Vocational Education.

13 (c) A "certified third-party tester" is a person who has been  
14 issued a certificate under this chapter.

15 (d) "Commercial driver's license" has the meaning defined in  
16 subdivision (a) of Section 15210.

17 (e) "Federal regulations" include the regulations of the  
18 administration, federal motor carrier safety regulations, and any  
19 other applicable federal regulations.

20 (f) The "skills test" is the driving test authorized to be  
21 administered by a third-party tester under subdivision (c) of  
22 Section 15250.

23 12202. (a) The department shall promulgate regulations for  
24 the implementation of the third-party tester certification program  
25 established under this chapter.

26 (b) A employee of the department or of any public agency may  
27 not be employed as a third-party tester

28 (c) A person may not administer a skills test until he or she has  
29 been certified under this chapter.



1 12204. (a) An applicant for third-party tester certification  
2 shall provide any information deemed necessary by the  
3 department, including, but not limited to, all of the following:

4 (1) The full name, business address, and phone number of the  
5 applicant.

6 (2) An abstract substantiating the applicant's qualification for  
7 third-party tester certification.

8 (3) The class of driver's license for which third-party tester  
9 certification is being sought.

10 (4) The address of each location where the applicant intends to  
11 conduct the skills tests, including, but not limited to, a description  
12 of the off-road training facilities to be utilized, as well as a map and  
13 written description of the test route that will be used for the on-road  
14 portion of the testing.

15 (b) In addition to any requirements imposed by the department,  
16 the applicant shall comply with the approval process administered  
17 by the bureau.

18 12206. A certified third-party tester shall do all of the  
19 following:

20 (a) Participate in any local, state, and national training courses,  
21 workshops, and seminars deemed appropriate by the department.

22 (b) Conduct skills tests in accordance with the requirements  
23 imposed by the department and by federal regulations.

24 (c) Facilitate annual on-site inspections by the department.

25 (d) Facilitate random examinations, inspections, and audits by  
26 the department and the administration, without advance notice by  
27 those entities.

28 (e) Maintain records of skills tests administered for the  
29 previous two years, including, but not limited to, the following  
30 information for each examinee:

31 (1) Full name and address.

32 (2) Social security account number, to the extent authorized  
33 under federal law.

34 (3) The license number and state or origin for any license issued  
35 prior to enrollment.

36 (4) The date of any skills test taken.

37 (5) A test score sheet for any skills test taken.

38 (6) A record of fees paid and refunds issued.

39 (7) The motor vehicle description, gross vehicle weight, and  
40 license number of a motor vehicle used to administer the skills test.

1 (8) A copy of the contract for testing or training of the  
2 examinee.

3 12208. The department shall issue third-party tester  
4 certification to an applicant upon determining that the applicant  
5 has complied with this chapter.

6 12210. Certified third-party testers shall do all of the  
7 following:

8 (a) Notify the department of any change in the third-party  
9 tester's qualification status.

10 (b) Surrender the certificate if the certificate is revoked by the  
11 department for cause, or if the third-party tester becomes  
12 permanently inactive.

13 12212. The third-party tester certificate is not transferable.

14 12214. The third-party tester certificate is valid for five years  
15 and may be reissued upon application for additional five-year  
16 periods. The applicant for renewal shall submit the application not  
17 less than 180 days before the expiration date of the certificate.

18 12216. The department shall train all third-party testers,  
19 including, but not limited to, periodic refresher training. The  
20 department shall charge a fee determined by it to be sufficient to  
21 cover its costs for providing the required training.

22 12218. A copy of the third-party tester certificate shall be  
23 prominently displayed at all testing facility locations.

24 SEC. 2. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

